

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

**DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP**

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*Attorneys for Plaintiff Texas Eastern Transmission, LP*

TEXAS EASTERN TRANSMISSION, LP, a  
limited partnership of the State of Delaware  
Plaintiff,

v.

0.077 Acres Of Land, More or Less, In The City  
of Jersey City, Hudson County, New Jersey;  
COLES JERSEY DEVELOPMENT CO., LLC;  
OGDEN REALTY CO.; JANE AND JOHN  
DOES 1 through 50 (fictitious name defendants);  
and ABC BUSINESS ENTITIES 1 through 50  
(fictitious name defendants),

Defendants.

Civil Action No. 14-167-SRC-CLW

**RESPONSE TO  
COUNTERSTATEMENT OF  
UNDISPUTED MATERIAL FACTS**

Plaintiff, Texas Eastern Transmission, LP (“Texas Eastern”) sets forth the following responses to the Counterstatement of Undisputed Material Facts filed by Defendant Coles Jersey Development Co. LLC (Document 50-2). The Responses are based on the Certification of Franklin S. Gessner (Document 1-6); Affidavit of Daniel Gans (Document 8-2); Supplemental Certification of Franklin S. Gessner (Document 14-1); Certification of Peter H. Wegener, Esq.; and Certification of Michael J. Ash, Esq., CRE.

1. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 1.

2. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 2.

3. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 3.

4. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 4.

5. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 5.

6. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 6.

7. Texas Eastern disagrees, in part, with the facts set forth in Paragraph 7. While Crescent Heights, Gans and Vallone may have considered the Purchase and Sale Agreement to be “terminated”, Ogden held a deposit of \$2,190,000.00 that it would not return. Ash Cert., Ex. H (Document 45-12, p. 45); Deposition of Dan Gans 1T:8015-18 (“And Crescent Heights said that that’s not going to happen and they’re going to fight it out with these guys. ‘They owe us our money back.’”). Furthermore, the Purchase and Sale Agreement terminated on July 3, 2013 at the closing between Ogden Realty and Coles Jersey based on the explicit terms of a Settlement Agreement and Mutual Release dated July 3, 2013 between Ogden Realty, CH Acquisitions 2, LLC, Jersey City North, LLC, and Hoboken Brownstone Company, a registered trademark of West Bank Realty, Inc. Ash Cert., Ex. H (Document 45-12, p. 44)

8. Texas Eastern disagrees, in part, with the facts set forth in Paragraph 8. While Ogden agreed to extend the closing date with Crescent Heights if the purchasers “came up with cash quickly, if Crescent Heights came up with it on Monday or Tuesday that they could close,

but they weren't going to share the allocations of the Spectra/Texas Eastern money with us.”

Deposition of Dan Gans 1T:79:12-17.

9. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 9.

10. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 10.

11. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 11.

12. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 12.

13. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 13.

14. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 14.

15. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 15.

16. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 16.

17. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 17.

18. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 18.

19. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 19.

20. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 20.

21. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 21.

22. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 22.

23. Texas Eastern agrees, upon information and belief, with the facts set forth in Paragraph 23.

**DeCOTIIS, FITZPATRICK, COLE & GIBLIN, LLP**

*Attorneys for Plaintiff, Texas Eastern Transmission, LP*

Dated: December 7, 2018

By: /s/ Jeffrey D. Smith

JEFFREY D. SMITH